

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3108 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

=====

1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

-----  
BAVISHI BRIQUETTING INDUSTRIES

Versus

UNION OF INDIA  
-----

Appearance:

MR TH SOMPURA for Petitioner

MS KUSUM M SHAH for Respondent No. 1, 2, 3  
-----

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 19/08/1999

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution the petitioner who is engaged in the business of small-scale business of briquetting and cakes and coal has challenged the legality and validity of the action of the respondents in charging freight at class rate of 52.5. According to the petitioner, class rate could not be charged at the rate higher than 47.5 in view of the contents of the Circular No.C/70/1/107 dated

17.2.1982 (Annexure-C to the petition). According to the petitioner, once the conditions of the said circular are satisfied, the authorities can charge freight at class rate of 47.5 only irrespective of the endorsement on the back of the railway receipts.

2 While admitting this petition, no interim relief was granted. Even if there were any merits in the petition, it is not the case of the petitioner that he has borne the brunt of the freight rate at class rate 52.5 and he has given to his customers the benefit of class rate of 47.5. If any order is passed in favour of the petitioner, that would amount to unjust enrichment. Looking to the nature of the controversy involved in the petition and the aforesaid reasoning, this Court is not inclined to exercise the extraordinary jurisdiction under Article 226 of the Constitution of India to grant any relief to the petitioner.

3 The petition is, therefore, dismissed. Rule is discharged.

\*\*\*

(mohd)